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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the Nonviolent Radical Party, Transnational and Transparty, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[18 May 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The right to freedom of peaceful assembly in the Tibet Autonomous Region (TAR), China

The right to freedom of peaceful assembly is the right to gather publicly or privately and collectively express, promote, pursue and defend common interests. This right includes the right to be protected from undue interference and is recognized as a fundamental human right due to its inclusion in numerous multilateral international human rights treaties and the International Bill of Human Rights. The rights of peaceful protesters are also protected through a set of universally recognized human rights and fundamental freedoms.

The People's Republic of China (PRC) has acceded to numerous international treaties which recognize the right to freedom of assembly, including the International Convention on the Elimination of all Forms of Racial Discrimination (Articles 4,5), the Convention on the Elimination of Discrimination Against Women (Article 7 (c)), and the Convention on the Rights of the Child (Article 15). Additionally, the Chinese Constitution guarantees the right to freedom of peaceful assembly, stating, "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration" (Article 35).

Despite the PRC's agreement to ratify international treaties that recognize the right to freedom of assembly and their guarantee of the right in their constitution, it continues to suppress and detain peaceful Tibetan protesters, often using violent means to do so. Chinese authorities have brutally cracked down on peaceful gatherings of Tibetans protesting apolitical issues, such as unfair termination of employment and the demolition of their businesses. The PRC has used vague and catch-all charges such as "picking quarrels and provoking troubles" to silence and intimidate activists, lawyers and petitioners, thereby denying their citizens the freedom to peaceful assembly.

On June 23rd, 2016, a group of 30 police officers led by the county government head physically assaulted Tibetans who were carrying protest banners reading "We Need to Eat! We Need to Survive!" Eight of the Tibetans received serious injuries to their heads and legs. Similarly in early June, anti-mining protesters in Amchok Township in Sangchu County were attacked by armed paramilitary troops, resulting in the detention and hospitalization of some protesters. The protests lasted a week, following 15 years of frustrated appeals to authorities to halt the mining. Despite provocations by armed personnel, the protesters kept their protest peaceful.

Often during and following the suppression of a protest, Chinese officials have threatened the family members of protesters to destroy any evidence they have of the protest and abstain from sharing any information about it, or else risk three to four years in jail. Furthermore, government officials often deny the existence of any protest, justify their violent suppression of the protests and/or denounce the protests as "illegal" or the handiwork of "a few evil people in collusion with anti-China forces".

Chinese authorities routinely accuse peaceful Tibetan protesters of "illegally gathering a crowd," which is likely derived from Article 296 of the Chinese Criminal Law which states that an assembly, a procession or a demonstration must be applied for and granted permission by competent authorities in order to be considered legal. In addition, this law states that if a gathering disobeys orders to dismiss, or is not in accordance with the start and stop times stated on their application, persons who are in charge and those directly responsible for the assembly, procession or demonstration shall be sentenced to fixed-term imprisonment of not more than five years.

This law conflicts with international standards laid out by the Office of Democratic Institutions and Human Rights guidelines and the Special Rapporteur's best practices. The ODIHR guidelines state that, "as a fundamental right, freedom of assembly should be enjoyed without regulation insofar as is possible...and those wishing to assemble should not be required to obtain permission to do so...it is the responsibility of the state to put in place adequate mechanisms and procedures to ensure that the enjoyment of the freedom is practical and not unduly bureaucratic". Similarly, the Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai wrote that the exercise of fundamental freedoms should not be subject to the consent of authorities, although they may require prior notice at

most, so that the State may facilitate the exercise of this right. Article 296 of the Chinese Criminal Law therefore violates this international standard by expressly rejecting international human rights standards regarding the freedom of peaceful assembly. Since the grounds for the suppression and detention of peaceful protesters does not conform to international human rights standards, the legality requirement of the claim is not satisfied.

In his report to the Human Rights Council in March of 2017, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein expressed concern that if China intends to play a leadership role in the Human Rights Council, it should respect the rights of human rights defenders, and cease to restrict cultural and religious rights, particularly in Tibet. China's claims to legitimately serve on the UN Human Rights Council is seriously undermined by its failure to protect the right to freedom of peaceful assembly in Tibet.
